

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18866 of Planned Parenthood Association of DC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for variances from the court (§ 536) and parking (§ 2101.1) requirements and a special exception and for office use (§ 508) to allow a new mixed use residential and commercial office building in the SP-2 District at premises 1108 16th Street, N.W. (Square 183, Lot 111).¹

HEARING DATES: December 2, 2014 and January 27, 2015

DECISION DATE: January 27, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 10.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B filed a report, which indicated that at a properly noticed, scheduled public meeting held on October 8, 2014, with a quorum of Commissioners present, the ANC voted 6-0 to support the application. (Exhibit 27.)

¹ The Applicant amended the application and the amended request is for variance relief under § 2101.1 only from the parking requirements for the commercial elements of the building and not from both § 2101.1 and § 2120, as originally advertised. The Applicant's requests for a variance from court requirements under § 536 and special exception relief under § 508.1 to allow office use remain the same. The caption has been amended accordingly. The Applicant revised its plans for the project by lowering the number of units from the originally requested 20 units to 15 units and removed the roof top trellis. The Applicant added one parking space and thus is requesting variance relief from the required nine parking spaces for the commercial office space, while providing the required four parking spaces for the residential use on-site. (Exhibit 39.)

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The Office of Planning ("OP") submitted a report indicating its support of the application.² (Exhibit 35.) The District Department of Transportation ("DDOT") submitted a timely report of no objection to the application with conditions. (Exhibit 31.)

Letters from neighbors and testimony of support from Cheryl Cort on behalf of the Coalition of Smarter Growth were submitted to the record. (Exhibits 33, 34, and 41.)

Variance Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from the court (§ 536) and parking requirements (§ 2101.1) to allow a new mixed use residential and commercial office building in the SP-2 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for variances under §§ 536 and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or undue hardship for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception for office use under § 508, to allow a new mixed use residential and commercial office building in the SP-2 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 508, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

² OP requested and the Board granted a waiver of the time requirements for OP to file its report.

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBITS 36 AND 39A AND THE FOLLOWING CONDITIONS:**

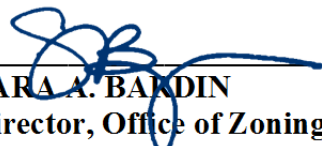
1. The Applicant shall disseminate information regarding phone apps that provide access to alternative commuting means that include Uber, Ridescout, Car2Go, DC Rider, Metro's Rid Planner, and SpotCycle.
2. The Applicant shall install a TransitScreen that will provide residents and office patrons a quick guide to access a Metrobus, Metrorail train, Capital Bikeshare bike, Car2Go, ZipCar, or Sidecar.
3. The Applicant shall provide each new tenant a one year carsharing or Capital Bikeshare membership.
4. The Applicant shall provide materials as part of the move-in package that includes a map of the Capital Bikeshare stations and recommend SpotCycle as a useful phone app.
5. Prior to securing a Certificate of Occupancy, the Applicant shall provide nine off-site parking spaces by a lease agreement with a garage in the vicinity of the building.

VOTE: **4-0-1** (Lloyd L. Jordan, Peter G. May, Marnique Y. Heath³, and Jeffrey L. Hinkle to Approve; S. Kathryn Allen, not participating or voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: February 4, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

³ Board member Heath indicated that she had read the full record in order to participate in the case and vote.

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.